

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**CHARLESTON DIVISION**

HERMAN LEE COOK,

Plaintiff,

v.

CIVIL ACTION NO. 2:13-cv-20573

CAROLYN W. COLVIN,  
Acting Commissioner of Social Security,

Defendant.

**MEMORANDUM OPINION AND ORDER**

Pending before the Court are the parties' motions for judgment on the pleadings. (ECF 10 & 11.) By Standing Order entered on April 8, 2013, and filed in this case on July 24, 2013, this action was referred to United States Magistrate Judge Cheryl A. Eifert for submission of proposed findings and a recommendation for disposition ("PF&R"). (ECF 4.) Magistrate Judge Eifert filed her PF&R on January 20, 2015, which recommends that this Court grant Plaintiff's motion to remand, (ECF 10), deny Defendant's request to affirm the decision of the Commissioner of the Social Security Administration ("Commissioner") denying Claimant's application for supplemental security income, (ECF 11), reverse the final decision of the Commissioner, remand this matter, and dismiss this action from the docket of the Court. (ECF 12.)

The Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the findings or recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of de novo review and the Plaintiff's right to appeal this

Court's Order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th Cir. 1984). In addition, this Court need not conduct a de novo review when a party "makes general and conclusory objections that do not direct the Court to a specific error in the magistrate's proposed findings and recommendations." *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982).


Objections to the PF&R in this case were due by February 6, 2015. To date, no objections were filed.

Accordingly the Court **ADOPTS** the PF&R, **GRANTS** Plaintiff's motion for a remand, (ECF 10), **DENIES** Defendant's request to affirm the decision of the Commissioner, (ECF 11), **REVERSES** the final decision of the Commissioner, **REMANDS** this matter pursuant to sentence four of 42 U.S.C. § 405(g) for further administrative proceedings to determine if Claimant's impairments meet or equal listing 12.05C, and **DISMISSES** this action from the docket of the Court.

**IT IS SO ORDERED.**

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: February 9, 2015

  
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THOMAS E. JOHNSTON  
UNITED STATES DISTRICT JUDGE